

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

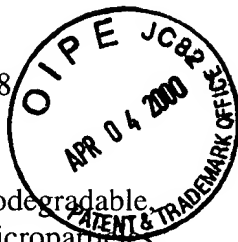
In re application of:

Rickey *et al.*

Appl. No. 09/263,098

Filed: March 5, 1999

For: Preparation of Biodegradable,
Biocompatible Microparticles
Containing a Biologically Active
Agent



Art Unit: 1615

Examiner: C. Azpuru

Atty. Docket: 00166.0063.US04

**Terminal Disclaimer to Obviate a Double Patenting Rejection Under
37 C.F.R. § 1.321(c)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Alkermes Controlled Therapeutics Inc. II ("Alkermes") represents that it is the owner of the entire right, title, and interest of Application No. 09/071,865, filed on May 4, 1998, and U.S. Patent No. 5,916,598 that issued therefrom, by virtue of an Assignment from all of the inventors thereof executed on July 27 and July 28, 1998, recorded on October 1, 1998 at Reel 9501, Frame 0123. Said assignment also covers all continuations from Application No. 09/071,865. As the above-named Application No. 09/263,098, is a continuation of Application No. 09/071,865, **Alkermes** is the owner of the entire right, title, and interest of the above-named Application No. 09/263,098 by virtue of the assignment recorded at Reel 9501, Frame 0123.

Alkermes represents that it is a co-owner of the entire right, title, and interest of Application No. 08/850,679, filed on May 2, 1997, and U.S. Patent No. 5,792,477 that issued therefrom, by virtue of an Assignment of inventors thereof recorded on November 14, 1997 at Reel 8808, Frame 0012.

Establishing Right of Assignee to Take Action Under 37 C.F.R. § 3.73(b)

A Certificate Under 37 C.F.R. § 3.73(b) establishing the right to act on behalf of the assignee, with regard to the above-identified application **is being filed herewith.**

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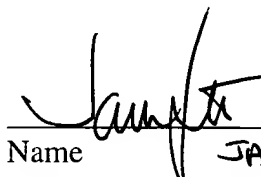
Disclaimer

Alkermes hereby disclaims the terminal part of any patent granted on the above-identified application that would extend beyond the expiration of its co-owned U.S. Patent No. **5,792,477** and hereby agrees that any patent granted on the above-identified application, or any patent granted on the above-identified application and subject to the reexamination proceeding, shall be enforceable only for and during such period that said patent is commonly owned with the application or patent that formed the basis of the obviousness type double patenting rejection, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term, as currently shortened by any terminal disclaimer, of Patent No. **5,792,477** in the event that Patent No. **5,792,477** later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by terminal disclaimer, except for the separation of legal title stated above.

This disclaimer is accompanied by the fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

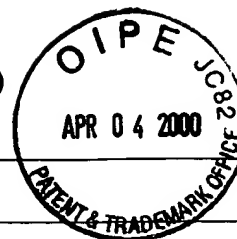


Name **JAMES FRATES**
Title **VICE PRESIDENT**

Alkermes Controlled Therapeutics Inc. II

Date: 3-21-00

Certificate Under 37 C.F.R. § 3.73(b)



Applicants: Michael E. Rickey; J. Michael Ramstack; and Danny H. Lewis

Application No: 09/263,098

Filed: March 5, 1999

For: Preparation of Biodegradable, Biocompatible Microparticles Containing a Biologically Active Agent

Alkermes Controlled Therapeutics Inc. II

(Name of Assignee)

, a Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

A. ☒ An Assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 9501, Frame 0123, or for which a copy thereof is attached.

[or]

B. ☐ A chain of title from the inventor(s) of the patent application identified above to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

To the best of the undersigned's knowledge and belief, title of the patent application identified above is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 3-21-00

Name: JAMES FRATES

Title: VICE PRESIDENT

Signature: [Signature]